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Atty. Dkt. No. 029849-0204

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Andrew Vaillant and Jean-Marc Juteau

Title: ANTIVIRAL  
OLIGONUCLEOTIDES  
TARGETING HSV AND CMV

Appl. No.: 10/661,097

Filing Date: 09/12/2003

Examiner:

Art Unit: 1614

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| <p align="center"><b>CERTIFICATE OF MAILING</b></p> <p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below.</p> <p align="center"><u>DIANE GARCIA</u><br/>(Printed Name)</p> <p align="center"><u>[Signature]</u><br/>(Signature)</p> <p align="center"><u>11-23-04</u><br/>(Date of Deposit)</p> |
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**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.56**

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Sir:

The USPTO has waived the requirement under 37 CFR 1.98(a)(2)(i) to submit copies of U.S. patents and U.S. patent application publications when citing and submitting an Information Disclosure Statements in a patent application filed after June 30, 2003 and in an international application that has entered the national stage under 37 USC §371 after June 30, 2003. Accordingly, copies of these types of documents are not being supplied in connection with this application. Reference is being made to OG Notice dated August 5, 2003, *Information Disclosure Statements May Be Filed Without Copies of U.S. Patents and Published Applications in Patent Applications filed after June 30, 2003.*

Applicants submit herewith on Form PTO/SB/08 a listing of the documents cited by or submitted to the U.S. PTO in related application Serial No. 10/661,403 also filed 09/12/2003. As provided in 37 CFR §1.98(d), copies of the documents are not being provided

since they were previously submitted to the United States Patent & Trademark Office in that application.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicants do not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

### **TIMING OF THE DISCLOSURE**

The listed documents are being submitted in compliance with 37 CFR §1.97(b), before the mailing date of the first Office Action on the merits.

### **RELEVANCE OF EACH DOCUMENT**

All of the documents are in English.

Applicants respectfully request that any listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

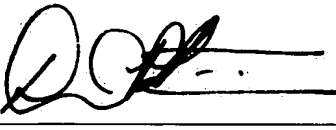
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 CFR §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

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Respectfully submitted,

Date November 23, 2004

FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6700  
Facsimile: (858) 792-6773

By 

David P. Lentini  
Attorney for Applicant  
Registration No. 33,944

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|   |   |    |    | Filing Date            | 09/12/2003      |
|   |   |    |    | First Named Inventor   | Andrew Vaillant |
|   |   |    |    | Group Art Unit         | 1614            |
|   |   |    |    | Examiner Name          |                 |
| Sheet   | 1 | of | 13 | Attorney Docket Number | 029849-0204     |

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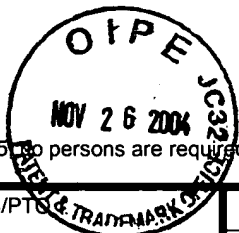
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|                                 | A2                    | AGRAWAL and KANDIMALLA, "Antisense and/or Immunostimulatory Oligonucleotide Therapeutics," <i>Current Cancer Drug Targets</i> 1:197-209 (2001)   |                |
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|                                 | A4                    | ARCHAMBAULT, <i>et al.</i> , "Phosphorothioate oligonucleotides inhibit the replication of lentiviruses and type D retroviruses, but not that of type C retroviruses," <i>Arch Virol</i> 139:97-109 (1994)   |                |

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Sheet 2 of 13

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| Group Art Unit         | 1614            |
| Examiner Name          |                 |
| Attorney Docket Number | 029849-0204     |

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|--------------------|-----------------------|---|----------------|
|                    | A5                    | BERKOW, <i>et al.</i> , "Nonsteroidal Anti-Inflammatory Drugs (NSAIDs)," <i>The Merck Manual of Diagnosis and Therapy</i> , 15 <sup>th</sup> ed., 2499-2506 and 46-49 (1987)  |                |
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| Sheet  | 3 | of   | 13   |

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|                                 | A15                   | Du PLESSIS, <i>et al.</i> , "Topical Delivery of Liposomally Encapsulated Gamma-Interferon," <i>Antivir. Res.</i> 18:259-265 (1992)  |                |
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|                                 | A22                   | GAO, <i>et al.</i> , "Inhibition of Herpes Simplex Virus Type 2 Growth by Phosphorothioate Oligodeoxynucleotides," <i>Antimicrobial Agents and Chemotherapy</i> 34(5):808-812 (1990)   |                |

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|                                 | A23                   | HIGUCHI, <i>et al.</i> , "Particle Phenomena and Course Dispersions," <i>Remington's Pharmaceutical Sciences</i> 21:301-329 (1985)   |                |
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|                                 | A28                   | JAIRATH, <i>et al.</i> , "Inhibition of respiratory syncytial virus replication by antisense oligodeoxyribonucleotides," <i>Antiviral Res.</i> 33:201-213 (1997)   |                |
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|                                 | A30                   | KABANOV, <i>et al.</i> , "A new class of antivirals: antisense oligonucleotides combined with a hydrophobic substituent effectively inhibit influenza virus reproduction and synthesis of virus-specific proteins in MDCK cells," <i>FEBS Lett.</i> 259:327-330 (1990) |                |

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|                                 | A31                   | KANDIMALLA, <i>et al.</i> , "Effects of Phosphorothioate Oligodeoxyribonucleotide and Oligoribonucleotides on Human Complement and Coagulation," <i>Bioorg. &amp; Med. Chem. Lett.</i> 8:2103-2108 (1998)  |  |                |
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|                                 | A33                   | KLIBANOV, <i>et al.</i> , "Amphipathic polyethyleneglycols effectively prolong the circulation time of liposomes," <i>FEBS Lett.</i> 268:235-237 (1990)  |  |                |
|                                 | A34                   | KLIMUK, <i>et al.</i> , "Enhanced Anti-Inflammatory Activity of a Liposomal Intercellular Adhesion Molecule-1 Antisense Oligodeoxynucleotide in an Acute Model of Contact Hypersensitivity," <i>Journ. of Pharm. &amp; Exper. Ther.</i> 292:480-488 (2000)     |  |                |
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|                                 | A39                   | LERNER, <i>et al.</i> , "A Six-Month Trial of Valacyclovir in the Epstein-Barr Virus Subset of Chronic Fatigue Syndrome: Improvement in Left Ventricular Function," <i>Drugs of Today</i> 38(8): 549-561 (2002)  |                |
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|  |   |    |    | <b>Group Art Unit</b>         | 1614            |
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|  |    |    |    | Application Number       | 10/661,097      |
|  |    |    |    | Filing Date              | 09/12/2003      |
|  |    |    |    | First Named Inventor     | Andrew Vaillant |
|  |    |    |    | Group Art Unit           | 1614            |
|  |    |    |    | Examiner Name            |                 |
| Sheet  | 13 | of | 13 | Attorney Docket Number   | 029849-0204     |

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